ORIGINAL

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED
MAY 0 9 2005
LAWRENCE K. BAERMAN, CLERK
ALBANY

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-vs-

Criminal 04-CR-544 (TJM)

STIPULATION AND ORDER FOR SALE OF SPECIFIC STOCKS HELD IN INVESTMENT ACCOUNTS

KUN FUK CHENG,
a/k/a STEVEN CHENG,
JIN RONG CHENG,
a/k/a JOYCE CHENG,
and HUI GUO,

Defendants.

****

THE UNITED STATES ATTORNEY, by and through Assistant U.S. Attorneys Sara M. Lord and Thomas A. Capezza, defendant Kun Fuk Cheng, a/k/a Steven Cheng, by and through his attorney, Brian Devane, Esq. hereby stipulate and agree as follows:

1. On November 17, 2004, a Federal Grand Jury sitting in the Northern District of New York returned an Indictment (the "Indictment") in Criminal No. 04-CR-544. The Indictment charges defendant Kun Fuk Cheng, a/k/a Steven Cheng, with violations of 8 U.S.C.,

§§1324(a)(1)(A)(v)(I), 1324(a)(3)(A), 18, U.S.C. § 2 and 18 U.S.C. §1956(h) and seeks criminal forfeiture of, among other things, a TD Waterhouse Account, pursuant to 18 U.S.C. § 982(a)(6)(A), 8 U.S.C. § 1324(b)(1) and 28 U.S.C. §2461(c)

2. Included in the Indictment is a forfeiture allegation relating to Counts 1 through 3 which includes a money judgment and seeks forfeiture to the United States of America of both real and personal properties and in the absence of such property, seeks forfeiture of substitute assets.

3. The Forfeiture Allegation against defendant Kun Fuk Cheng, a/k/a Steven Cheng, as set forth in the Indictment, seeks forfeiture of assets on the basis that those assets constitute or were derived from, facilitated or were intended to facilitate, one or more of the charged offenses and/or constitutes or are traceable to proceeds obtained directly or indirectly from one or more of the charged offenses.

4. On November 18, 2004, the United States filed Restraining Orders against certain investment accounts. More specifically, TD Waterhouse Account # : XXXXXX1719, in the name of Qiong Huang, with Kun Fuk Cheng as interested party. This account is currently TD Waterhouse Compliance Account #: XXX-X2937. The Government contends that Kun Fuk Cheng, a/k/a Steven Cheng has an interest in the TD Waterhouse Compliance Account #: XXX-X2937 and that his interest is subject to criminal forfeiture to the United States, as set forth in the Indictment.

5. The defendant, Kun Fuk Cheng, a/k/a Steven Cheng, requests that he be allowed

to sell all current holdings of U.S. Steel stock held in TD Waterhouse Compliance Account #: XXX-X2937.

6. Upon completion of certain due diligence research to ensure that the interests of the United States in the Properties are adequately protected, and consultation with the various counsel connected with the proposed sale, the United States agrees with the undersigned to allow the proposed sale of all current holdings of U.S. Steel stock held in TD Waterhouse Compliance Account #: XXX-X2937 to go forward, subject to the full and complete satisfaction of the agreed-upon conditions set forth below.

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned, through their respective counsel, that:

1. The defendant, Kun Fuk Cheng, will be allowed to sell all current holdings of U.S. Steel stock held in TD Waterhouse Compliance Account #: XXX-X2937. The defendant further agrees that the gross proceeds of the sale of the U.S. Steel stock, less any reasonable sales commission, will be deposited into the money market account of TD Waterhouse Compliance Account #: XXX-X2937, to serve as the forfeitable res in lieu of the subject stock.

2. The defendant, Kun Fuk Cheng, agrees that upon the deposit of the proceeds of the sale into the money market account, the full and complete balance of any and all funds in TD Waterhouse Compliance Account #: XXX-X2937, will be turned over to the United States to be held in the Customs Suspense account pending the resolution of the criminal matter and forfeiture. Defendant further agrees that TD Waterhouse shall then issue a check to U. S. Customs and Border Protection, payable to "U.S. Customs and Border Protection," for the full and complete balance of TD Waterhouse Compliance Account #: XXX-X2937. The check will

be sent to the attention of Special Agent Jay Hamilton at the U. S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Leo O'Brien Building, Room 746, Clinton and North Pearl Street, Albany, New York 12207

3. Upon the filing of this Stipulation and Order, or as soon thereafter as is practicable, the defendant, Kun Fuk Cheng, agrees to proceed with the sale of all current holdings of U.S. Steel stock currently held in TD Waterhouse Compliance Account #: XXX-X2937. The defendant will sell the stock at market value by placing a call to TD Waterhouse at the following number 1-800-934-4448. The defendant, further agrees to direct TD Waterhouse to deposit the proceeds of this sale into the money market TD Waterhouse Compliance Account #: XXX-X2937.

4. The defendant, Kun Fuk Cheng, agrees that immediately following the sale of the U.S. Steel stock, he will notify the government of the sale and will provide the government with the following confirmation of the sale, the date of the sale, and the gross proceeds of the sale.

5. In the event the defendant breaches any of his obligations pertaining to the sales of the specific stocks listed above the government reserves the right to liquidate all restrained properties belonging to the defendant or in which the defendant has an interest and

place the proceeds from those properties in a Customs Suspense Account pending the outcome of this criminal matter.

Dated: 5/5/05

UNITED STATES OF AMERICA

Glenn T. Suddaby
United States Attorney
Northern District of New York

By: Thomas A. Capezza
Thomas A. Capezza
Assistant U.S. Attorney

Dated: 5/4/05

Kun Fuk Cheng, a/k/a Steven Cheng
Defendant

Dated: 5/4/05

Brian W. Devane
Brian W. Devane
Attorney for Kun Fuk Cheng

Dated: 5/4/05

Qiong Huang, as listed Owner of
TD Waterhouse Compliance Account #:
XXX-X2937
by Kun Fuk Cheng as Power
of Attorney for Qiong Huang

In accordance with the above Stipulation, it is hereby

ORDERED, that the defendant, Kun Fuk Cheng, shall be allowed to sell all current holdings of U.S. Steel stock held in TD Waterhouse Compliance Account #: XXX-X2937 and that immediately upon the sale of the U.S. Steel stock, the gross proceeds, less any reasonable sales commission, will be deposited in the money market account of TD Waterhouse Compliance Account #: XXX-X2937.

ORDERED, that following the deposit of the remaining gross proceeds into the money market account, the full and complete balance of any and all funds in TD Waterhouse Compliance Account #: XXX-X2937 will be turned over to the United States to be held in the Customs Suspense account pending the outcome of this criminal matter, to serve as the forfeitable res in lieu of the subject stock.

ORDERED, that TD Waterhouse shall then issue a check to U. S. Customs and Border Protection, payable to "U. S. Customs and Border Protection", for the full and complete balance of TD Waterhouse Compliance Account #: XXX-X2937. The check will be sent to the attention of Special Agent Jay Hamilton at the U. S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Leo O'Brien Building, Room 746, Clinton and North Pearl Street, Albany, New York 12207

ORDERED, that upon the filing of this Stipulation and Order, or as soon thereafter as is practicable, the defendant, Kun Fuk Cheng, will proceed with the sale of all current holdings of U.S. Steel stock currently held in TD Waterhouse Compliance Account #: XXX-X2937.

ORDERED, that the defendant will sell the stock at market value by placing a call to TD Waterhouse at the following number 1-800-934-4448 and that the defendant, will direct TD Waterhouse to deposit the proceeds of this sale into the money market TD Waterhouse Compliance Account #: XXX-X2937.

ORDERED, that immediately following the sale of the U.S. Steel stock, the defendant, Kun Fuk Cheng, will notify the government of the sale and will provide the government with the following confirmation of the sale; the date of the sale, and the gross proceeds of the sale.

ORDERED, that in the event the defendant breaches any of his obligations pertaining to the sales of the specific stocks listed above the government reserves the right to liquidate all restrained properties belonging to the defendant or in which the defendant has an interest and place the proceeds from those properties in a Customs Suspense Account pending the outcome of this criminal matter.

SO ORDERED,

Dated May 9, 2005

Thomas J. McAvoy

HON. THOMAS J. MCAVOY
U. S. DISTRICT JUDGE

HOLD HARMLESS AGREEMENT

With respect to the attached Stipulation and Order for Sale of Specific Stocks Held in Investment Accounts, and more particularly regarding the sale of all holdings of U.S. Steele within TD Waterhouse Compliance Account No.: XXX-X2937, Steven Cheng hereby agrees to defend, indemnify and hold harmless the United States Government, its agents, servants and/or employees from any/all claims resulting from the above-referenced sale of U.S. Steele holdings.

Kun Fuk Cheng

Sworn to before me this
4th day of May, 2005.

Brian W. Devane
Notary Public